

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

UNITED STATES OF AMERICA,

v.

**Criminal Action No. 3:21-CR-49
(GROH)**

**JONATHAN TOEBBE and
DIANA TOEBBE,**

Defendants.

UNITED STATES' UNOPPOSED MOTION FOR COMPLEX CASE DESIGNATION

Comes now the United States of America and William J. Ihlenfeld, II, United States Attorney for the Northern District of West Virginia, by Jarod J. Douglas, Assistant United States Attorney for said District, and request the Court to designate this case as complex pursuant to Local Rule of Criminal Procedure 16.01(h)(1), based upon the following:

1. On October 19, 2021, a Federal Grand Jury in Elkins, West Virginia, returned the instant Indictment [Doc. 37], charging violations of the Atomic Energy Act of 1954, 42 U.S.C. § 2011 et seq., relating to the communication of Restricted Data, a form of classified information. As such, the case will involve the application of complex legal issues associated with the Classified Information Procedures Act, 18 U.S.C. App. III ("CIPA").

2. The Indictment arises from an investigation that has produced, and continues to produce, voluminous discovery material that the government is presently processing for disclosure. In addition, the government has just recently come in possession of additional discovery material, which is still being processed for disclosure. For example, on October 9, 2021, investigators executed Federal search warrants on the defendants' residence and two vehicles, as well as two

office spaces used by Defendant Jonathan Toebbe. Pursuant to these warrants, investigators seized several electronic devices, which are still being processed as evidence.

3. Accordingly, the government asserts that this case is so complex due to the nature of the prosecution that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by the Speedy Trial Act.

4. On October 20, 2021, the defendants were arraigned on the Indictment. The Court ordered that trial be held on December 14, 2021, preceded by the government's Rule 16 discovery disclosure on October 27, 2021. For the reasons stated above, the government argues that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within these time limits, and that the government is unable to disclose the discovery material in its possession pursuant to the current schedule.

5. Counsel for the defendants do not oppose the request to designate this case as complex.

6. If the Court designates this case as complex, the government will endeavor to confer with the defendants not later than seven (7) days following such designation to develop a Proposed Complex Case Schedule, as required by Local Rule of Criminal Procedure 16.01(h)(2). No later than seven (7) days following this conference, the government intends to cause the filing of a Proposed Complex Case Schedule, as required by Local Rule of Criminal Procedure 16.01(h)(3).

WHEREFORE, the government respectfully requests that the Court designate this case as complex pursuant to Local Rule of Criminal Procedure 16.01(h)(1) and vacate the current case schedule pending the filing of a Proposed Complex Case Schedule.

Respectfully submitted,

WILLIAM J. IHLENFELD, II
UNITED STATES ATTORNEY

By: /s/ Jarod J. Douglas
Jarod J. Douglas
Assistant U. S. Attorney

CERTIFICATE OF SERVICE

I, Jarod J. Douglas, Assistant United States Attorney for the Northern District of West Virginia, hereby certify that on the 20th day of October 2021, the foregoing UNITED STATES' MOTION FOR COMPLEX CASE DESIGNATION was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Nicholas J. Compton, Esq.
Assistant Federal Public Defender
MVB Bank Building
651 Foxcroft Avenue, Ste. 202
Martinsburg, WV 25401
Counsel for Defendant Jonathan Toebe

Edward B. MacMahon, Jr., Esq.
107 E. Washington Street
Middleburg, VA 20117
Counsel for Defendant Diana Toebe

Barry P. Beck, Esq.
Power, Beck & Matzureff
308 W. Burke Street
Martinsburg, WV 25401
Counsel for Defendant Diana Toebe

WILLIAM J. IHLENFELD, II
UNITED STATES ATTORNEY

By: /s/Jarod J. Douglas
Jarod J. Douglas
Assistant U. S. Attorney